

**Effective 5/3/2023**

**26B-8-111 Birth certificate name or sex designation change -- Registration of court order and amendment of birth certificate.**

- (1) An individual may obtain a court order in accordance with Title 42, Names, to change the name on the individual's birth certificate.
- (2)
  - (a) A court may grant a petition ordering a sex designation change on a birth certificate if the court determines by clear and convincing evidence that the individual seeking the sex designation change:
    - (i) is not involved in any kind of lawsuit;
    - (ii) is not on probation or parole;
    - (iii) is not seeking the amendment:
      - (A) to commit a crime;
      - (B) to interfere with the rights of others;
      - (C) to avoid creditors;
      - (D) to influence the sentence, fine, or conditions of imprisonment in a criminal case;
      - (E) to commit fraud on the public; or
      - (F) for any other fraudulent purpose;
    - (iv) has transitioned from the sex designation of the biological sex at birth to the sex sought in the petition;
    - (v) has outwardly expressed as the sex sought in the petition in a consistent and uniform manner for at least six months; and
    - (vi) suffers from clinically significant distress or impairment due to the current sex designation on the birth certificate.
  - (b) The court shall consider the following when making the determination described in Subsection (2)(a)(iv):
    - (i) evidence of medical history, care, or treatment related to sex transitioning; and
    - (ii) evidence that the sex sought in the petition is sincerely held and part of the individual's core identity.
- (3)
  - (a)
    - (i) When determining whether to grant a sex designation change for a child who is at least 15 years and six months old, unless the child is emancipated, the court shall appoint, notwithstanding Subsection 78A-2-703(1), a guardian ad litem for the child.
    - (ii) Notwithstanding Subsection 78A-2-703(7), the child's parent or guardian is responsible for the costs of the guardian ad litem's services unless the court determines the parent or guardian is indigent in accordance with Section 78A-2-302.
  - (b) The guardian ad litem shall provide the court relevant evidence, whether submitted by the child or other sources of evidence, regarding the following:
    - (i) whether the child is capable of making decisions with long-term consequences independently of the child's parent or guardian;
    - (ii) whether the child is mature and capable of appreciating the implications of the decision to change the sex designation on the child's birth certificate; and
    - (iii) whether the child meets the other requirements of this section.
  - (c) The guardian of a child described in Subsection (3)(a) shall:
    - (i) give notice of the proceeding to any known parent of the child; and

- (ii) provide the court with a declaration of the status of any divorce or custody matter pertaining to the child, including the case name, case number, court, judge, and current status of the case.
- (d) The court shall:
  - (i) consider any objection given by a parent;
  - (ii) close the hearing on a petition for a sex designation change;
  - (iii) receive all evidence; and
  - (iv) make a determination as to whether:
    - (A) all of the requirements of Subsection (2) have been met; and
    - (B) the evidence supports a finding by clear and convincing evidence that the sex designation change is in the best interest of the child and would not create a risk of harm to the minor.
- (4)
  - (a) A court may not grant a petition for a sex designation change if:
    - (i) the birth certificate is for a child who is younger than 15 years and six months old; or
    - (ii) the child's parent or guardian with legal custody has not given permission.
  - (b) An order granting a sex designation change under this section is not effective until the individual is at least 16 years old.
- (5) A petition for a sex designation under this section may be combined with a petition under Title 42, Names.
- (6)
  - (a) Upon the receipt of a certified order granting a birth certificate amendment, any required application, and an appropriate fee, the department shall issue:
    - (i) a birth certificate that does not indicate which fields were amended unless requested by the individual; and
    - (ii) an amendment history of the birth certificate, including the fields of the birth certificate that have been amended and the date of the amendment.
  - (b) The department shall retain a record of all amendments to a birth certificate, including any amendment history issued by the department.
- (7) The provisions of this section are severable.
- (8) This section only applies to birth certificates issued by the state.

Amended by Chapter 306, 2023 General Session, (Coordination Clause)

Renumbered and Amended by Chapter 306, 2023 General Session

Repealed and Re-enacted by Chapter 493, 2023 General Session